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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/058,203	01/29/2002	Larry L. McGuire	0201UR	3909

7590

11/13/2003

Paul S. Rooy  
2620 S. Peninsula Dr  
Daytona Beach, FL 32118

EXAMINER

DRAPER, DEANN L

ART UNIT	PAPER NUMBER
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3616

DATE MAILED: 11/13/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/058,203

Applicant(s)

MCGUIRE, LARRY L.

Examiner

Deanna L. Draper

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 29 January 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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### *Acknowledgements*

The Information Disclosure Statement filed by the Applicant on January 29, 2002 is acknowledged.

### *Specification*

The abstract of the disclosure is objected to because the abstract begins with a sentence fragment – “An automatically adjustable rear suspension.”. Correction is required. See MPEP § 608.01(b).

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 4 – 7, 11 – 14, and 18 – 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In Claims 4, 11, and 18, the applicant claims a gas shock absorber “attached *at one extreme* to said trike frame and *at an opposite extreme* to the trike swing arm” (italics added). It is unclear as to what is meant by “at one extreme” and “at an opposite extreme” – this description of the location of the shock absorber is confusing, and the exact location of the gas shock absorber is unclear. Clarification is required.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 – 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Winchell et al. (US 4,437,535), and further in view of Kallstrom (US 6,068,276).

Winchell discloses a three-track motorcycle, including a main motorcycle frame (70 in Fig. 1) with a rear trice frame (14 in Fig. 1) attached to the main frame, with the rear frame having a suspension system (see 66, 68 in Fig. 4) and a shock absorber (66 in Fig. 1). However, Winchell does not disclose a pneumatic suspension system as claimed.

Kallstrom discloses a pneumatic suspension system in order to provide better support, including a supply of pressurized gas including a compressor (100 in Fig. 11) and accumulator tank (102 in Fig. 11) pneumatically connected to a valve (122 in Fig. 11), at least one air spring (55R, 55L in Figs. 2, 11) pneumatically connected to said valve, where the air spring is disposed between a swing arm (48R, 48L in Fig. 6) and a vehicle frame (50R, 50L in Fig. 6), and the valve is mechanically attached to the swing arm by means of a valve pushrod (125 in Fig. 11, 17). The swing arm is pivotally connected to the frame (see 56R, 56 L in Fig. 2) and further comprises an L arm comprising a horizontal member rigidly attached to a vertical member (see attachment), with the air spring being disposed between the horizontal member and vehicle frame (see Fig. 9). The system also includes an axle (50L, 50R in Fig. 6, 9) with the valve pushrod

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mechanically connecting the axle and the valve (see Fig. 17). Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Winchell's three-wheeled motorcycle by replacing the rear suspension with the suspension disclosed in Kallstrom in order to provide better support.

Claims 15 – 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Furukawa (US 4,796,901), and further in view of Kallstrom (US 6,068,276). Furukawa discloses a motorized vehicle with a pair of rear wheels (22 in Fig. 1) with a rear suspension, including a shock absorber (20 in Fig. 1). However, Furukawa does not disclose a pneumatic suspension system as claimed. Kallstrom discloses a pneumatic suspension system in order to provide better support, including a supply of pressurized gas including a compressor (100 in Fig. 11) and accumulator tank (102 in Fig. 11) pneumatically connected to a valve (122 in Fig. 11), at least one air spring (55R, 55L in Figs. 2, 11) pneumatically connected to said valve, where the air spring is disposed between a swing arm (48R, 48L in Fig. 6) and a vehicle frame (50R, 50L in Fig. 6), and the valve is mechanically attached to the swing arm by means of a valve pushrod (125 in Fig. 11, 17). The swing arm is pivotally connected to the frame (see 56R, 56 L in Fig. 2) and further comprises an L arm comprising a horizontal member rigidly attached to a vertical member (see attachment), with the air spring being disposed between the horizontal member and vehicle frame (see Fig. 9). The system also includes an axle (50L, 50R in Fig. 6, 9) with the valve pushrod mechanically connecting the axle and the valve (see Fig. 17). Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Furukawa's three-wheeled vehicle

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by replacing the rear suspension with the suspension disclosed in Kallstrom in order to provide better support.

### *Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Manning (US 4,248,455) discloses a heavy-duty suspension system. Barlas et al. (US 5,785,345) discloses a means for and method of controlling frame rise in vehicle suspensions. Wallace et al. (US 4,649,719) discloses a linkage suspension system. Butler et al. (US 3,740,070) discloses a vehicle suspension system. Behmenburg et al. (US 6,332,623) discloses a level adjustment device for vehicles with air springs. Penzotti (US 6,149,142) discloses a pneumatic vehicle suspension system with variable spring stiffness. Penzotti et al. (US 5,374,077) discloses a pneumatically damped vehicle suspension system. Perlot (US 5,566,971) discloses a vehicle air suspension system. Porter (US 4,453,616) discloses a rear suspension system for a motor-tricycle. Moore (US D246776) discloses a motorized tricycle. Dumais (US 5,899,291) discloses a three-wheel motorcycle. Ethier (US 4,662,468) discloses a snowmobile-motorcycle three-wheel vehicle. Takayanagi et al. (US 4,913,255) discloses a shock absorber for a motorcycle. Grzech, Jr. (US 5,690,046) discloses an amphibious vehicle.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Deanna L. Draper whose telephone number is 703-306-5939. The examiner can normally be reached on Monday - Friday, 9:00 - 6:00.


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul N. Dickson can be reached on 703-308-2089. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-5771.

~~DEANNA T. KAPER~~  
PATENT EXAMINER

dld

  
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